

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER MARSHALL,
Plaintiff,

No. C 12-02849 YGR (PR)

ORDER OF DISMISSAL

v.

ALAMEDA COUNTY JAIL,
Defendant.

On December 5, 2012, the Court issued an Order Dismissing Complaint With Leave to Amend and gave Plaintiff thirty days from the date of the Order to file an amended complaint providing factual and legal bases for his claims. Plaintiff was warned that a failure to timely file an amended complaint would result in dismissal for failure to prosecute.

On January 30, 2013, the Court issued an Order Granting in Part and Denying in Part Plaintiff's Request for an Extension of Time to File Amended Complaint. Plaintiff was directed to "file his amended complaint on or by **April 5, 2013.**" (Jan. 30, 2013 Order at 2 (emphasis in original).)

The time for Plaintiff to file his amended complaint has passed, and no amended complaint has been filed.

Accordingly, IT IS HEREBY ORDERED that the complaint in the above-captioned action is DISMISSED WITHOUT PREJUDICE for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of the Court shall enter judgment, terminate all pending motions, and close the file.

When and if Plaintiff is prepared to pursue his claims, he may file a new civil rights action. The limitations period to file a § 1983 action in California is two years, but it is tolled for up to two years during a continuous period of incarceration. *See Silva v. Crain*, 169 F.3d 608, 610 (9th Cir. 1999) (holding, pursuant to Cal. Civ. Proc. Code § 340(3), that the limitations period for filing a

§ 1983 action in California is one year); S.B. 688 (amending Cal. Civ. Proc. Code § 340(3) and adding § 335.1 to establish two-year residual limitations period for personal injury actions); Cal. Civ. Proc. Code § 352.1(a) (providing for an additional two years of tolling during a period of continual imprisonment).

IT IS SO ORDERED.

DATED: April 29, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE